THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.3513 OF 2006

Dt.6.3.2006

Between:

G.Markonda Naidu and 5 others … Petitioners

And

The State of A.P., rep. By the

Collector, Chittoor and 2 others. … Respondents

ORDER:

Petitioners seek writ of mandamus directing the respondent authorities not to proceed further with the proposed acquisition of lands belonging to the petitioners in Survey Nos.48/1, 51/3 and 55/2 situated at Mogili Village, Bangarupalem Mandal, Chittoor District, pursuant to the notification issued by the first respondent under Section 4(1) of the Land Acquisition Act, 1894.

Heard the learned counsel for the petitioners as well as the learned Government Pleader for Land Acquisition on behalf of the respondents.

The case of the petitioners is that they are the owners of various extents of land in Survey Nos.48/1, 51/3 and 55/2 situate at Mogili

Village, Bangarupalem Mandal, Chittoor District. It is stated the petitioners are small farmers eking out their livelihood on agricultural operations in their small extents of land, which is less than Ac.5.00. It is stated that a notification under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') proposing to acquire various extents of land in Mogili village in Survey Nos.48-1, 48-4, 51-3 and 55-2 total admeasuring Ac.51.94 dispensing with the enquiry under Section 5-A by exercising powers under Section 17(4) of the Act for the purpose of establishing Food Processing Industrial Units by independent agencies. It is stated on the requisition made by the A.P. Industrial Infrastructural Corporation, the Collector initiated land acquisition proceedings to acquire the said lands and allot the same to the private entrepreneurs for establishing Food Processing Industrial Units. No doubt, the establishment of Food Processing Industrial Units is in the public interest. But the learned counsel for the petitioners submits that there is no urgency to acquire the said lands by invoking provisions of Section 17(1) and (2) of the Act and therefore the action of the respondents in dispensing with the enquiry under Section 5-A by invoking Section 17(4) of the Act is illegal and arbitrary and therefore the notification under Section 4(1) published in daily newspaper on 19.12.2005 and the declaration under Section 6 of the Act published on 28.12.2005 are illegal and arbitrary. It is stated that the petitioners came to know about the aforesaid proceedings pursuant to the notice issued to them under Sections 9 and 10 of the Act.

The learned Government Pleader appearing on behalf of the respondents fairly submits that it is one such case where the Government ought not to have invoked the urgency clause, as there are no special circumstances applicable for the provisions of sub-section (1) and sub-section (2) of Section 17 to invoke urgent clause by exercising powers under Section 17(4) of the Act dispensing with the provisions of Section 5-A of the Act.

Having regard to the facts and circumstances of the case, I am of the opinion that the declaration issued under Section 6 of the Act is illegal

and without jurisdiction. Accordingly, the declaration issued under Section 6 of the Act for acquiring the said lands in question is set aside and the respondents are directed to conduct enquiry under Section 5-A of the Act pursuant to the notification under Section 4(1) of the Act and proceed further in accordance with law.

The writ petition is allowed accordingly. No order as to costs.

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(V.ESWARAIAH, J.)

6.3.2006

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